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## THE BOUNDARY OF NEW MEXICO AND THE GADSDEN TREATY

A dispute regarding the southern and western boundaries of New Mexico is likely to occupy a comparatively large portion of the completed narrative of the negotiations which ended in the Gadsden Treaty of December 30, 1853. The treaty of Guadalupe Hidalgo described a new boundary between the United States and Mexico and provided for its survey and location in the following language:

The boundary line between the two Republics shall commence in the Gulf of Mexico, three leagues from land, opposite the mouth of the Rio Grande, otherwise called the Rio Bravo del Norte, or opposite the mouth of its deepest branch, if it should have more than one branch emptying directly into the sea; from thence up the middle of that river following the deepest channel, where it has more than one, to the point where it strikes the southern boundary of New Mexico, thence westward, along the whole southern boundary of New Mexico (which runs north of the town called Paso) to its western termination; thence northward along the western line of New Mexico, until it intersects the first branch of the river Gila; (or if it should not intersect any branch of that river, then to the point on the said line nearest to such branch, and thence in a direct line to the same); thence down the middle of said branch and of the said river, until it empties into the Rio Colorado; thence across the Rio Colorado, following the division line between Upper and Lower California, to the Pacific Ocean.

The southern and western limits of New Mexico, mentioned in this article, are those laid down in the map entitles "*Map of the United States as organized and defined by various acts of the congress of said republic, and constructed according to the best authorities. Revised edition. Published at New York, in 1847, by J. Disturnell*".

In order to designate the boundary line with due precision, upon authoritative maps, and to establish upon the ground landmarks which shall show the limits of both republics, as described in the present article, the two Governments shall each appoint a commissioner and a

surveyor, who, before the expiration of one year from the date of the exchange of ratifications of this treaty, shall meet at the port of San Diego, and proceed to run and mark said boundary in its whole course to the mouth of the Rio Bravo del Norte. . . .<sup>1</sup>

*Organization and Work of the First Commission.* The progress of the boundary survey was hampered from the beginning by partisan politics in the United States. On July 6, 1848, two days after the proclamation of the Treaty of Guadalupe Hidalgo, Polk sent a special explanatory message to the House and asked for appropriations. In this message he referred to the stipulation in the fifth article which required both countries to appoint a commissioner and a surveyor who should meet at San Diego within a year from the date of the ratification of the treaty. He said it was necessary that "*provision be made by law*" for the appointment of a commissioner and surveyor on the part of the United States.<sup>2</sup> The Senate promptly passed a bill making such provision,<sup>3</sup> but it was introduced in the House just three days before the close of the session and died in the hands of the Committee on Foreign Affairs.<sup>4</sup>

The general appropriation bill passed by this session of congress provided, however, for \$50,000 to be expended in defraying the expenses of the boundary commission.<sup>5</sup> Polk thereupon proceeded to make the necessary appointments. This he did either because he thought the stipulation in the appropriation bill warranted such action, or because he was anxious to fill the positions on the commission before the expiration of his term of office. The Senate, which contained a membership of thirty-six democrats and twenty-two whigs, of course confirmed Polk's nominations.<sup>6</sup>

When the Senate bill providing for the organization of the commission was taken up in the House during the next session of Congress, the Whigs, who held a majority in this body, at-

<sup>1</sup> W. M. Malloy, *Treaties*, etc. (Washington, 1910), I. 1109-1110.

<sup>2</sup> *Globe*, 30 cong., 1 sess., pp. 901-902.

<sup>3</sup> *Ibid.*, pp. 1043-1052.

<sup>4</sup> *Ibid.*, p. 1064.

<sup>5</sup> 9 U. S. Stat. at Large, 301.

<sup>6</sup> *Sen. Ex. Journal*, VIII. 24.

tempted to nullify the action of Polk. They introduced amendments confining appointments to the boundary commission to members of the Topographical Corps, and providing that no part of the money appropriated then or thereafter be used to pay the salaries of any officers or persons connected with the boundary survey whose appointment had been made without authority of law. Both of these amendments passed the House, and their partisan nature is shown by the yeas and nays on the latter. Eighty-one Whigs and two Democrats voted for the measure, while forty-four Democrats and one lone Whig voted against it.<sup>7</sup> The Senate refused to accept the bill as amended by the House<sup>8</sup> and, consequently, the boundary commission was forced to proceed with limited funds and with uncertainty as to the amount of salary each member was to receive.

The joint commission from Mexico and the United States met at San Diego on July 6, 1849, only a few days after the time stipulated by the treaty. The American group was composed of John B. Weller, commissioner; Andrew B. Gray, surveyor; William H. Emory, astronomer; and John C. Cremony, interpreter. The Mexican government was represented by Pedro García Condé as commissioner, and José Salazar y Larregui as surveyor and astronomer.<sup>9</sup> Besides these, there were several assistants and a military escort for the commission of each government.<sup>10</sup>

On October 10, 1849, the initial point of the boundary was ascertained. A written statement in English and Spanish was placed in a bottle which, after being hermetically sealed, was deposited in the ground, and a temporary monument was erected upon the spot. The commission then proceeded to determine the point of junction of the Gila and the Colorado. In the following January, this point was agreed upon. All that now remained to be done, so far as this portion of the boundary was concerned, was to survey a straight line from the junction of

<sup>7</sup> *Globe*, 30 cong., 2 sess., pp. 617-624.

<sup>8</sup> *Ibid.*, pp. 667-668.

<sup>9</sup> *Sen. Ex. Doc.* No. 119, 32 cong., 1 sess. (ser. 626), pp. 59, 67.

<sup>10</sup> *Ibid.*, *loc. cit.*

these two rivers to the initial point on the Pacific coast. Accordingly, engineers were appointed for this task, and the commission adjourned on February 15, 1850, to meet in El Paso on the first Monday in the following November.<sup>11</sup>

*The Dismissal of Weller.* But long before this part of the task had been completed the Whigs had decided to get Weller's scalp. Even prior to his arrival at San Diego, where he was to take up his work, his successor had been appointed. Weller reached San Diego on July 1, 1849,<sup>12</sup> but on June 26, John C. Fremont had been chosen to supersede him and had been given a letter from the Secretary of State to Weller informing him of his dismissal.<sup>13</sup> Fremont at first accepted the appointment, but he later changed his mind, having in the meantime decided to run for United States Senator from California.<sup>14</sup> The letter of June 26, apparently never reached Weller.<sup>15</sup> Soon afterwards the oversight of the boundary commission was transferred from the Department of State to that of Interior. On December 19, the secretary of the latter department addressed another letter of dismissal to Weller.<sup>16</sup> This dispatch the commissioner received, and he proceeded according to instructions to turn over the books, papers, and other paraphernalia to Major Emory. The letter of the Secretary of Interior accused Weller of carelessness in the management of the commission, and he later declared that Weller had maltreated subordinate officials; but as all this occurred, if at all, after the decision to remove Weller had already been made, there was strong suspicion that the whole affair was a political move.<sup>17</sup>

*The Second Commission.* At any rate, Weller was removed and John Russell Bartlett was at length appointed in his stead on June 19, 1850.<sup>18</sup> A virtual reorganization of the commission

<sup>11</sup> *Ibid.*, pp. 60, 65; *Sen. ex. Doc.*, No. 34, 31 cong., 1 sess. (ser. 558), pp. 31-38.

<sup>12</sup> *Globe*, 31 cong., 2 sess., pp. 78-79.

<sup>13</sup> *Ibid.*, pp. 78-84; *Sen. Ex. Doc.*, No. 34, 31 cong. 1 sess. (ser. 558), pp. 9-10.

<sup>14</sup> William H. Emory, "Report", *House Ex. Doc.* No. 135, 34 cong., 1 sess. (ser. 861), p. 5.

<sup>15</sup> *Globe*, 31 cong., 2 sess., p. 80.

<sup>16</sup> *Sen. Ex. Doc.*, No. 34, 31 cong., 1 sess. (ser. 558), p. 15.

<sup>17</sup> *Globe*, 31 cong., 2 sess., pp. 80 ff.

<sup>18</sup> *Sen. Ex. Doc.*, No. 119, 32 cong. 1 sess. (ser. 626), p. 87.

then took place. Gray was retained as surveyor, but John McClellan was appointed as chief astronomer instead of Emory who had resigned.<sup>19</sup> Neither the American nor the Mexican group reached El Paso by the appointed time. The former, with the exception of Gray, arrived on November 13, and the latter put in their appearance December 1.<sup>20</sup>

*Compromise Regarding the Initial Point on the Rio Grande.* The first question to be decided was the initial point on the Rio Grande. According to Article V. of the treaty of 1848, the southern and western boundaries of New Mexico were to be those laid down in Disturnell's map, and the boundary of the United States was to extend up the middle of the Rio Grande "to the point where it strikes the southern boundary of New Mexico (which runs south of the town called Paso)". But it was soon found that there were errors in the Disturnell map. El Paso was not only located thirty minutes too far north, but both it and the Rio Grande were placed more than two degrees too far to the east. Again, according to this map the southern boundary of New Mexico was three degrees long and seven minutes north of El Paso. A dispute arose as to whether the actual position of El Paso and of the Rio Grande should be made the starting point and a line beginning seven minutes north of El Paso run westward for three degrees, or whether the points were to be located by parallels and meridians as laid down on Disturnell's map. The Mexican commissioner contended that the initial point should be fixed on the Rio Grande as actually situated, but at the parallel of thirty-two degrees and twenty-two minutes as it appeared on the Disturnell map; and that, moreover, the length of the southern boundary of New Mexico should be determined by subtracting the distance between the Rio Grande as actually situated and as it appeared upon this map, from three degrees (175.28 English miles), thus leaving this portion of the line about one-third its length as shown on the Disturnell map.<sup>21</sup>

<sup>19</sup> *Sen. Ex. Doc.*, No. 34, 31 cong., 1 sess. (ser. 558), pp. 12-13.

<sup>20</sup> J. R. Bartlett, *Personal Narrative* (New York, 1854), II. 145, 150.

<sup>21</sup> Bartlett, *Personal Narrative*, I. 201-203; *Sen. Ex. Doc.* No. 119, 32 cong., 1 sess. (ser. 626), pp. 289, *passim*.

The commissioner for the United States dissented from this view, and after a number of meetings, a compromise was reached, by the terms of which the southern boundary of New Mexico was to extend three degrees west of the Rio Grande as the river was actually situated, running along the parallel of thirty-two degrees and twenty-six minutes, or seven minutes north of El Paso as that city appeared upon the Disturnell map.<sup>22</sup> With this compromise Bartlett was well pleased, for he believed that Condé would never have consented to the extension of the boundary three degrees west of the Rio Grande had the American commissioner refused to fix the initial point thirty minutes further north than it would have fallen according to the relative actual positions of the southern boundary of New Mexico and the town of El Paso. He felt, also, that in consenting to such a compromise he had yielded land of no great value while gaining territory rich in gold and silver mines.<sup>23</sup> Moreover, the Secretary of the Interior and the Secretary of State approved Bartlett's action.

The agreement regarding the initial point was reached on December 25, 1850,<sup>24</sup> before Surveyor Gray put in his appearance. When he arrived late in July, 1851, he found the corner stone marking the spot already laid and a portion of the southern boundary of New Mexico already run.<sup>25</sup> He refused, however, to sign the agreement reached by Bartlett and Condé, and recalling Lieutenant Whipple, who had been acting as surveyor *ad interim*, from his work on this line, he sent him with two parties to the Gila.<sup>26</sup> Colonel Graham who was now the astronomer of the commission likewise disapproved, as did Whipple,

<sup>22</sup> *Sen. Ex. Doc.*, No. 119, pp. 391-394, 406-409, and accompanying maps. See also, H. H. Bancroft, *History of Arizona and New Mexico, 1530-1888* (San Francisco, 1889), p. 451.

<sup>23</sup> *Sen. Ex. Doc.* No. 119, pp. 145-148; *Sen. Ex. Doc.*, No. 131 (ser. 627), pp. 1-3.

<sup>24</sup> *Ibid.*, p. 391.

<sup>25</sup> Bartlett, *Personal Narrative*, I. 206-207; *Sen. Ex. Doc.* No. 119 (ser. 626), p. 298.

<sup>26</sup> The best statement of Gray's views is found in *Sen. Ex. Doc.* No. 55, 33 Cong., 2 sess. (ser. 752).

and later, Major Emory.<sup>27</sup> Owing to quarrels between the American astronomer and surveyor, as well as between the commissioner and his subordinates, operations proceeded slowly on the Gila,<sup>28</sup> and both Gray and Graham were recalled before the end of the year.<sup>29</sup> Their combined functions were then conferred upon Emory, and better results were achieved. By the fall of 1852, the survey was completed, so far as the United States commission was concerned, from San Diego to the headwaters of the Gila, and from El Paso to Eagle Pass.<sup>30</sup> Notwithstanding the death of General Condé, the Mexican commission had completed by that time the entire survey west of the Rio Grande, and had begun operations on that river.<sup>31</sup> Bartlett now decided to send Whipple back to the boundary of New Mexico to take up the work where he had left off, while he and most of his men prepared to join Emory at Eagle Pass.<sup>32</sup> But while *en route*, he received a communication from Washington which convinced him that further operations of the commission would be impossible.<sup>33</sup> It was accordingly disbanded, and Bartlett and Emory set out for the capital.<sup>34</sup>

*Congressional Action.* Congress had in fact legislated the commission out of existence. It will be recalled how slow that body had been about taking the action necessary for its organization. In April, 1850, a bill had at length been passed fixing the salaries of the commissioner, the surveyor, and the astronomer, and providing for the termination of the commission three years

<sup>27</sup> For a statement of Graham's contentions, see *ibid.*, No. 121, 32 cong., 1 sess. (ser. 627). The most concise presentation of Bartlett's reasons for his course of action is contained in *Sen. Ex. Doc.* No. 41, 32 cong., 2 sess. (ser. 665). It would obviously not be pertinent to the main interest of this monograph to go into the arguments for and against the line agreed upon by the commissioners. They maintained that the boundary should have been established on a parallel thirty minutes farther south than had been done by the compromise line.

<sup>28</sup> *Sen. Ex. Doc.* No. 119 (ser. 626), pp. 172 *passim*.

<sup>29</sup> *Ibid.*, pp. 442-443; also *Sen. Ex. Doc.*, No. 121, 32 cong., 1 sess. (ser. 627), p. 49.

<sup>30</sup> *Ibid.*, No. 6, 33 cong., special sess. (ser. 688), pp. 18, 61-68, 117-119.

<sup>31</sup> *Sen. Ex. Doc.* No. 6, 33 cong., special sess. (ser. 688) pp. 18, 61-68, 117-119.

<sup>32</sup> *Ibid.*, pp. 71-74, 161.

<sup>33</sup> Bartlett, *Personal Narrative*, II. 514.

<sup>34</sup> *Ibid.*, 517 ff.



from January, 1850. In May and in September of the same year appropriations were made amounting to \$185,000, while the general appropriation bill for the following year set apart another \$100,000 for the boundary survey.<sup>35</sup>

But signs of an approaching storm were already visible. When news of Weller's dismissal reached Washington early in 1851, it occasioned vigorous protests on the part of the democratic element in the Senate.<sup>36</sup> Upon being released from the commission, Weller had remained in California where he made a successful race for the United States Senate. As soon as he obtained his seat in that body, he began to take active interest in the boundary survey. In March, 1852, he introduced a long resolution calling upon the Secretary of Interior to submit copies of all instructions given the commission, all correspondence relating to it, the number and names of persons employed, the amount of money spent, the manner of its disbursal, and an estimate of the amount necessary to complete the work. Weller also brought in a resolution asking information as to whether any charges had been filed in the War Department against the commission.<sup>37</sup>

The latter resolution had reference to charges preferred against Bartlett by Colonel McClellan whom he had discharged from the commission for drunkenness, efforts to destroy the authority of the commissioner, and conduct unbecoming a gentleman and an officer.<sup>38</sup> The chief complaints against Bartlett were the private use of transportation provided by the government for the boundary commission, unpardonable mismanagement of public interests and funds entrusted to him, and neglect of the health, comfort, and lives of individuals connected with the commission.<sup>39</sup> Into the details regarding the charges it is not necessary to go. They are mentioned here because they tend to cast discredit upon the commission and to delay the appro-

<sup>35</sup> Emory, "Report", *House Ex. Doc.*, No. 135, 34 cong., 1 sess. (ser. 861), p. 21; *Globe*, 31 cong., 1 sess., pp. 744, 745.

<sup>36</sup> *Globe*, 31 cong., 2 sess., pp. 78-84.

<sup>37</sup> *Ibid.*, 32 cong., 1 sess., p. 814.

<sup>38</sup> *Sen. Ex. Doc.*, No. 60, 32 cong., 1 sess. (ser. 620), pp. 10-17, 46-63.

<sup>39</sup> *Ibid.*, pp. 2-5, 23-46.

priations necessary to carry out its work, while, at the same time, they have some bearing upon the complaints of the Mexican government to be considered later.

More important than these charges, was the contention that Bartlett had departed from the treaty of 1848 in establishing the initial point on the Rio Grande. Rusk of Texas was the principal champion of this view. In May, 1852, he proposed, along with an amendment to the deficiency bill appropriating \$80,000 for running the boundary, a proviso that nothing in the amendment should be construed so as to sanction a departure from the point on the Rio Grande north of the town called Paso designated in the treaty of Guadalupe Hidalgo.<sup>40</sup> In the following July, while speaking of the charges preferred against Bartlett, Rusk declared that he would do everything in his power to resist the appropriation of money until there was assurance that this treaty and not the agreement of the commissioners should settle the question of the initial point on the Rio Grande.<sup>41</sup> The \$80,000 eventually appropriated for the boundary contained Rusk's proviso.<sup>42</sup>

Prominent among those who sided with Rusk was Mason of Virginia. In the latter part of August, 1852, when the expenses for running the boundary were being considered as an item in the general appropriation bill, he proposed "that no part of the appropriation should be used until it should be made to appear to the President of the United States that the southern boundary of New Mexico had not been established further north of El Paso than is laid down in the Disturnell Map".<sup>43</sup> Before the close of the month, the bill with the amendment received the approval of both houses and became a law.<sup>44</sup> Fillmore, in accordance with the provision, examined all the reports of the boundary commission, and, concluding that the money could not be used, ordered the Secretary of the Interior to discontinue

<sup>40</sup> *Globe*, 32 cong., 1 sess., p. 1404.

<sup>41</sup> *Ibid.*, p. 1660.

<sup>42</sup> *Ibid.*, p. 1404.

<sup>43</sup> *Ibid.*, pp. 2270-2271.

<sup>44</sup> *Ibid.*, p. 2407.

operations.<sup>45</sup> In the following March, that part of the appropriation bill which applied to the Mexican boundary was so amended as to permit the use of the funds necessary to complete the survey of the Rio Grande.<sup>46</sup> Work on the southern boundary of New Mexico was not to be resumed, however, and the dispute was left over for the incoming administration.

*Factors Complicating the Situation.* There were two factors which tended to lend gravity to the situation. In the first place, it was believed that the settlement agreed upon by the commissioners involved the loss of the only practicable southern route for a Pacific railway. This was deemed a matter of considerable importance. Major Emory had brought the subject to Buchanan's notice while negotiations which resulted in the Guadalupe Hidalgo treaty were in progress.<sup>47</sup> A provision relating to the matter was embodied in that treaty as finally drafted, Article VI. being made to provide for a joint agreement between the contracting parties with reference to the construction of a road, canal, or railway running "along the river Gila, or upon its right or its left bank, within the space of one marine league from either margin of the river". In his instruction to Weller, Buchanan had suggested that the "selection of individuals" for the boundary commission might be "made with reference to the incidental collection of information relative to the construction" of the proposed communication.<sup>48</sup> In the following February, the Secretary of State again called the subject to Weller's attention, declaring that the inquiry regarding the route was one of "great importance to the country".<sup>49</sup> The instructions of Commissioner Bartlett made the investigations regarding a railway of more than "incidental" importance. Referring to Article VI. of the treaty of Guadalupe Hidalgo, Secretary of Interior, wrote:

<sup>45</sup> *Ibid.*, 32 cong., 2 sess., p. 10.

<sup>46</sup> *Ibid.*, pp. 881, 1045, app. p. 331.

<sup>47</sup> Emory, "Report", *House Ex. Doc.* No. 135, 34 cong., 1 sess. (ser. 861), pp. 50-51.

<sup>48</sup> Buchanan to Weller, Jan. 24, 1849, *ibid.*, No. 34, 31 cong. 1 sess., (ser. 558), pp. 2-3.

<sup>49</sup> Same to same, Feb. 13, 1849, *ibid.*, 3-6.

As the examinations to be made and the information to be collected, agreeably to this article, are of very great importance, you will make such organization of parties, and assign to them such duties, as will be productive of the desired results.<sup>50</sup>

At least one member of the commission, Major Emory, was intensely interested in the matter. Writing from San Diego, California, April 2, 1849, he said:

By pushing the survey eastward, and looking for a branch of the Gila which shall fulfil the conditions of the treaty—the first to intersect the boundary of New Mexico—you will inevitably be made to strike that boundary far north of the parallel of the copper mines; because all the streams south of that parallel, having their sources in the Sierra Madre, running towards the Gila, disappear in the sands before they reach Gila, except in cases of unusual freshets. Working eastward their almost trackless beds must escape the notice of the keenest observer. Working from the 'Paso del Norte' northward, you strike the sources of the streams themselves; and although they may disappear many leagues before reaching the Gila, they may nevertheless be affluents of that river, and fulfil the conditions of that treaty.

Another view of the case may also be taken. The inaccuracy of the map upon which the treaty was made, and which thereby becomes a part of the treaty, is notorious. It is also known to all who have been much in the frontier States of Mexico, that the boundaries of those States have never been defined on the ground, and are unknown. This is particularly the case with the boundary betwixt New Mexico and Chihuahua. In this condition of things the commission must negotiate, and they may adopt the 32d parallel of latitude, until it strikes the San Pedro, or even a more southern parallel of latitude. This would give what good authority, combined with my own observations, authorizes me to say is a practicable route for a railroad—I believe the only one from ocean to ocean within our territory.<sup>51</sup>

Speaking of this letter at a later date, Emory asserted that he had written it "in the hope that the United States commissioner might succeed in torturing the treaty of Guadalupe Hidalgo to

<sup>50</sup> Secretary of Interior to Bartlett, Aug. 1, 1850, Bartlett, *Personal Narrative*, II. 589.

<sup>51</sup> Emory, "Report", *House Ex. Doc.* No. 135, 34 cong. 1 sess. (ser. 861), pp. 20-21.

embrace a practicable route" for the proposed road.<sup>52</sup> But Bartlett had agreed to the parallel of thirty-two degrees and twenty-two minutes, and had thus, as some believed, surrendered the line best adapted to the purpose.<sup>53</sup>

*Attitude of the People and Authorities in the Disputed Section.* The second factor which tended to render the situation dangerous was the attitude of the inhabitants and the officials living in and near the territory in dispute. Of the area of some 5,950 square miles in question—that is to say, the territory between the compromise line and that claimed by Gray—all except a narrow strip along the Rio Grande was considered barren and worthless. This strip, called *La Mesilla*, was known to be very fertile.<sup>54</sup> As to the motives leading to its settlement, and the political sentiments of the inhabitants, the authorities differ. Bartlett says the Mexican element of Doña Ana, which had been exasperated by the encroachments of the Anglo-Americans, sought new homes there in the belief that it would fall within the limits of Mexico, and that the Mexican government later encouraged Mexicans from New Mexico to make homes there.<sup>55</sup> Reports sent to the governors of New Mexico and forwarded by them to Washington indicated that the settlers came there with the clear understanding that it was to be within the jurisdiction of the United States.<sup>56</sup> At any rate the settlement of the valley began about 1849 or 1850, the region was in a flourishing condition,<sup>57</sup> and there were differences of opinion in regard to the political desires of the settlers. The Mexican officials contended that virtually all of them were desirous of being annexed to Chihuahua,<sup>58</sup> and with this view Bartlett was apparently in agreement, though he admitted that they may have been inveigled by wily land speculators

<sup>52</sup> *Ibid.*, p. 51.

<sup>53</sup> *Globe*, 32 cong., 1 sess., pp. 2402-2404, app., 776 ff.

<sup>54</sup> Bartlett, *Personal Narrative*, I. 188, 212.

<sup>55</sup> *Ibid.*, I. 213, II. 391. See also Bancroft, *Arizona and New Mexico*, p. 652.

<sup>56</sup> Houghton to Lane, September 1, 1853, and inclosures; Mansfield to Merriwether, October 25, 1853; Marcy to Merriwether, May 28, 1853. State Department, B.I.A.

<sup>57</sup> Bartlett, *op. et loc. cit.*

<sup>58</sup> Commissioners of Chihuahua to Lane, March 19, and Trias to Lane, March 28, 1853, State Department, B.I.A.

to petition for annexation to New Mexico.<sup>59</sup> That a group of its inhabitants sent in a petition expressing vigorous opposition to annexation to Chihuahua is certain;<sup>60</sup> and Judge Hyde of El Paso declared that the American population and "many of the Mexicans" had organized to resist any authorities Mexico might send, and were preparing to petition the governor of New Mexico to order elections for the civil officials of the district.<sup>61</sup> There was probably some truth in both statements, the Anglo-Saxon portion of the heterogeneous population being, in general, partial to New Mexico, while the majority of the Mexican element gave preference to Chihuahua.

A population thus divided served to render the situation more critical. Soon after the boundary commission reached the compromise regarding the southern boundary of New Mexico, the chief executive of Chihuahua responded to the supposed desire of the people for the protecting arm of his government, and apparently showed little regard for the persons and property of those who refused to accept his benevolence. The Americans, and those "favorable to American rights and privileges" naturally objected, not only petitioning the governor of New Mexico, but also asking that their complaints be laid before the federal government for redress.<sup>62</sup>

So far as the governor of New Mexico at the time was concerned, their efforts resulted in little more than calling forth from a dying man a wail because one more vexation had been added to a problem already difficult.<sup>63</sup> Before the new governor, William Carr Lane, left the east, he was urged by the territorial delegate to congress from New Mexico to occupy the disputed ground by force.<sup>64</sup> Lane took no action, however, until he learned that the federal congress had repudiated Bartlett's

<sup>59</sup> Bartlett, *op. cit.* II. 391-392.

<sup>60</sup> Citizens of Mesilla to Calhoun, August 25, 1851, James A. Calhoun, *Official Correspondence* (ed. A. H. Abel, Washington, 1915), pp. 404-405.

<sup>61</sup> *Sen. Ex. Doc.*, No. 41, 32 cong., 2 sess. (ser. 665), p. 13.

<sup>62</sup> Calhoun, *Official Correspondence*, pp. 404-405.

<sup>63</sup> *Ibid.*, pp. 424-425.

<sup>64</sup> Lane to Taylor, January 23, 1854, *House Rep.* No. 81, 33 cong. 2 sess. (ser. 808), pp. 1-2.

line. He then set out toward the disputed territory. When he arrived at Doña Ana, he issued a proclamation laying claim to jurisdiction over it,<sup>65</sup> justifying the step on the ground (1) that the section had been under the acknowledged jurisdiction of New Mexico from 1825 to 1851; (2) that the forcible annexation of the territory by Chihuahua at the latter date was illegal because the agreement of the commissioners did not constitute a final settlement; (3) that Chihuahua had signally failed not only to secure the inhabitants of the region in their rights of person, property, and conscience, but also to protect them from the depredations of the Indians; (4) that the revolutionary condition of Mexico precluded the hope of such protection being furnished in the future, (5) that a large portion of the inhabitants were claiming the protection of the United States and soliciting the re-annexation of that territory to New Mexico; (6) that during the year 1852 the United States had virtually asserted sovereignty over the region, and therefore it was his duty now to re-assert it.<sup>66</sup>

Lane mailed a copy of his proclamation to Angel Trias, the governor of Chihuahua, who responded with a counter declaration and prepared to resist Lane's claim by military force. Trias declared that the limits of Chihuahua had extended not only over the territory in question, but even farther northward; that, in regard to the disputed region, Mexico had in its favor the possession of the territory from time immemorial, its *pacific* occupation under the sight of the officials of the United States who were not accustomed to remain silent in cases where their rights were in doubt, its inclusion within the limits of Mexico by the joint boundary commission and the establishment of the immigrants who had chosen to leave the United States within it. Trias maintained, furthermore, that the inhabitants of the disputed section did not desire annexation to the United States, and, even if they did, this would not justify annexation; that in resorting to force, the governor of New Mexico would violate the

<sup>65</sup> *Ibid.*, pp. 3-4.

<sup>66</sup> Proclamation of March 13, 1853, State Department, B.I.A. A copy was printed in Spanish in *El Siglo XIX*, 10 de abril de 1853.

21st article of the Treaty of Guadalupe Hidalgo; and that it was not the prerogative of the governor to maintain the rights of the United States in a purely federal matter. In bringing his communication to a conclusion Trias sounded a note of warning regarding Lane's proposed occupation of the territory in dispute:

I shall use the means unquestionably necessary for its defense and conservation, in case it is attacked, and upon Your Excellency alone shall rest the responsibility for the consequences to which the procedure may give place."<sup>67</sup>

Prior to the arrival of this dispatch, Lane received a long communication from the so-called commissioners of Chihuahua who, endowed also with certain federal functions, were at that time upon the frontier. They set forth a line of argument similar to that of Trias, and the conclusion of their dispatch was no less bellicose:

Your Excellency will pardon my recommending that, in the interest of peace and neighborliness . . . you will maturely reflect and abandon your present resolution; because, if you do not, it becomes my duty as a commissioner of the Mexican Government not to permit any occupation of territory which would be prejudicial to the national honor.<sup>68</sup>

To the commissioners Lane replied immediately, giving evidence designed to support the contentions of his proclamation, and declaring that neither he nor the people of the United States coveted any portion of Mexican territory. The tone of his reply, however, was by no means pacifying. He said:

They [the American people] do not covet any territory that justly belongs to you, and if they did, you well know how easy would be the acquisition. . . . I came here in the spirit of peace, to perform a rightful and imperious duty, and had hoped to have found the authorities of Chihuahua reasonable and law-abiding; but instead thereof, I

<sup>67</sup> Trias to Lane, March 28, 1853, *El Siglo XIX*, 10 de abril de 1853; also in *El Universal*, 11 de abril de 1853 and in State Department, B.I.A.

<sup>68</sup> Dispatch dated March 19, 1853, *El Siglo XIX*, 10 de abril de 1853; also English translation published in *Santa Fé Gazette*, a clipping of which is in the State Department, B.I.A.



have been met with demonstrations of absurd and impotent hostility. . . .<sup>69</sup>

Before Lane found time to frame an answer to Trias, events occurred which modified the situation. In the first place, Colonel Sumner, the commander of the Department of New Mexico, refused to respond to his call for assistance in enforcing his proclamation; and although Texan and New Mexican volunteers offered to help him occupy the territory, he deemed it inadvisable under the circumstances to do so. Accordingly, he decided to lay the whole matter before the President.<sup>70</sup> Secondly, he received, on May 12, a letter from Alfred Conkling, the minister of the United States in Mexico, and another from Governor Trias. Conkling had been given by the Mexican Minister of Relations the proclamation of Lane and the reply of the commissioners of Chihuahua. His official duty would have been sufficiently discharged by forwarding the documents to Washington, but in view of the "extreme gravity" of the situation he decided to make known to Lane his opinion that nothing short of indubitable right and necessity could justify the occupation of the territory, and to advise him "gracefully" to change the attitude he had assumed.<sup>71</sup> The dispatch from Trias informed Lane that he had received a copy of the letter of Conkling to the governor of New Mexico, and expressed the confident hope that, in view of the advice of the Minister of the United States, Lane would do nothing to interrupt the amicable relations of the two countries.<sup>72</sup>

Lane's reply to Trias was therefore more conciliating. He declared that the authorities of Chihuahua had erred in attributing to him warlike measures. He had brought the subject to the attention of the cabinet in Washington, and he did not propose to move further until he received advices from that

<sup>69</sup> Dispatch of March 23, 1853, State Department, B.I.A.; also Spanish translation in *El Universal*, 15 de mayo de 1853.

<sup>70</sup> Lane to Taylor, January 23, 1854, *House Rep.* No. 81, 33 cong., 2 sess. (ser. 808), pp. 1-2.

<sup>71</sup> Dispatch of April 8, 1853, State Department, B.I.A.

<sup>72</sup> Dispatch of April 30, 1853, *ibid.*

source, "unless some unexpected contingency made further action indispensably necessary".<sup>73</sup>

*Attitude of the Government of the United States Regarding the Action of Lane.* Instead of instructing Lane as to further procedure in the matter, the federal government, in apparent disapproval of his action, sent out David Merriwether to supersede him. Merriwether was given full information regarding the state of the boundary dispute. He was told that an "unaccountable blunder" had been made in the survey. The American commissioner had given his consent to

an initial point on the Rio Grande about thirty-two miles farther north than indicated by the map annexed to and made a part of the treaty. In consequence of this mistake the line proposed to be established would exclude a large and valuable tract of country, heretofore regarded as a part of New Mexico. . . . This error in the yet unfinished labor of the boundary commission has [had] furnished a pretext to Mexico to assert a claim to this extensive tract.

For numerous reasons the United States could not admit this claim. What the Mexican government or the State of Chihuahua had done in relation to the occupancy of the country was not definitely known, but Merriwether was instructed to

abstain from taking forcible possession of the tract, even if on your [his] arrival in New Mexico you find [he found] it held adversely to the claim of the U. S. by Mexico or the authorities of Chihuahua.<sup>74</sup>

Colonel Sumner was likewise superseded by the appointment of Brevet Brigadier-General John Garland. The new commander was given a copy of Merriwether's instructions, and informed that they contained the views of the government in regard to the New Mexican boundary.

Your tried patriotism and known discretion [said the Secretary of War] give all needful assurance that you will, on every occasion, promptly and properly maintain the rights of your country and the

<sup>73</sup> Dispatch of May 15, 1853, *ibid.*

<sup>74</sup> Marcy to Merriwether, May 28, 1853, State Department, B.I.A.

honor of its flag; and in doing so, it is expected that you will avoid, as far as you consistently can, any collision with the troops or civil authorities of the Republic of Mexico or State of Chihuahua.<sup>75</sup>

At the same time Secretary of State Marcy wrote Conkling that the administration had no intention of departing from the path marked out by international law in such disagreements. He said:

Where a dispute as to territorial limits arises between two nations, the ordinary course is to leave the territory claimed by them, respectively, in the same condition in which it was when the difficulty first occurred until an arrangement can be made. . . . It has not been the intention of the United States to deviate from this course, nor has any notice been given by Mexico that she proposed to assume jurisdiction over it. . . .<sup>69</sup>

Governor Lane is justified in claiming the disputed territory as part of New Mexico and in denying that the acts of the boundary commission had in any manner effected a transfer of the territory from New Mexico to Chihuahua, but his proceeding to enter the territory and hold it by force of arms [!] is not approved and will not be, unless it shall appear that the authorities of Chihuahua had changed or were attempting to change the state of things in the disputed territory from the condition in which they were before the action of the boundary commission on that part of the line. The successor of Governor Lane will proceed without delay to New Mexico with instructions to pursue a course fair towards Mexico and usual in such cases.<sup>76</sup>

*Alarm in Mexico.* Such of this correspondence as came to light could hardly be calculated to allay the uneasiness and suspicion in Mexico. The Mexicans were especially apprehensive because of the aggressive attitude of the Anglo-Americans as revealed by the actions of the Tehuantepec company and the filibusters, and in the United States press. The Mexican commissioner had shown certain uneasiness almost from the beginning. On April 20, 1850, De la Rosa complained to Webster

<sup>75</sup> Davis to Garland, June 2, 1853, War Department.

<sup>76</sup> J. B. Moore, *History and Digest of International Law*, (Washington, 1906), I. 754.

of delay in the execution of the survey, concluding his note with the significant remark that he had called the matter to the attention of the United States government

in order that if in the future the unsettled state of the boundary between the two republics should unfortunately give rise to any unpleasant differences between them, no blame whatever may [might] be imputed to the government of Mexico.<sup>77</sup>

In the following year, after the reorganization of the commission of the United States, he objected to multiplicity of duties thrust upon the new body. He complained that it would require five years to complete the work at the previous rate of progress, and went on to call attention to the importance of the completion of the boundary survey to the preservation of the relations of friendship and good understanding between the two countries.<sup>78</sup> Again, in 1852, La Vega lodged with the Secretary of State a somewhat lengthy protest. He reminded Webster that, notwithstanding the fact that the joint commission had long since reached an agreement concerning the initial point of the boundary, its survey had been constantly delayed by the absence of the American surveyor, by numerous changes in the personnel of the United States commission, and by lack of harmony among its members. He implored the United States to organize the commission in permanent form, and declared that if the same method of confusion was continued, Mexico would not be responsible for the consequences.<sup>79</sup>

The news of Lane's proclamation not only caused the State of Chihuahua to take immediate action, but it led to some preparations on the part of the Mexican Federal government. On April 1, the former sent out circulars to the *jefe-políticos* instructing them to make effective the national guard. On the following day Trias was granted leave of absence for the purpose of proceeding to the frontier. He levied a forced loan,<sup>80</sup> collected

<sup>77</sup> *Sen. Ex. Doc.* No. 119, 32 cong., 1 sess. (ser. 626), pp. 2-4.

<sup>78</sup> De la Rosa to Webster, *Sen. Ex. Doc.* No. 120, 32 cong., 1 sess. (ser. 627), pp. 1-2.

<sup>79</sup> De la Vega to Webster, January, 1852, *loc. cit.*, pp. 2-4.

<sup>80</sup> *El Siglo XIX*, 23 de abril y 17 de mayo de 1853; *El Universal*, 20 de abril de 1853.

troops and supplies, and before the close of the month, arrived at El Paso with some 800 men.<sup>81</sup> At the same time, he dispatched to Mexico City a commissioner who was to present the claims of Chihuahua to the supreme government.<sup>82</sup> The action of Trias seems to have been approved. According to reports, the central government ordered to Chihuahua two companies of the Battalion of the Line, the *cuerpos activos* of Aguas Calientes and Guajuato, and three pieces of artillery.<sup>83</sup> At the same time the governor of Durango was ordered to the aid of Chihuahua. The chief executive of Zacatecas apparently had already dispatched 200 troops of the national guard to the frontier.<sup>84</sup>

The Mexican press showed considerable interest and uneasiness regarding the matter. The two leading papers of Mexico City sought to arouse the patriotism of their countrymen. On May 15, the editor of *El Universal* exhorted his readers to recall the "infinite offences" which their country had suffered with shameful resignation from the neighboring republic. Seeking to stimulate confidence, he contended that Mexico's seven millions were not defeated in 1847 by Scott, but rather by the vicious federal political system which had created a perennial source of internal strife by placing the divided power into the hands of the selfish and ignorant. Under such a system good men had been made the victims of unjust contumelies and atrocious persecutions, and had consequently lost all spirit and hope. But all this had changed now. The present government, based as it was upon fixed and sound principles, was capable of giving encouragement and creating patriotism. If Governor Lane was judging Mexico in 1853 by Mexico in 1847 he was destined to have his eyes opened. Mexico now had "magnificent prospects; *y un pueblo con estas esperanzas no las abandona facilmente, no se deja subyugar*". On May 24, the same periodical reported the news that Lane's conduct had been disapproved by the cabinet at Washington. But the editor was still uneasy.

<sup>81</sup> Trias wrote Lane from El Paso on April 30.

<sup>82</sup> *El Universal*, 11 de mayo de 1853.

<sup>83</sup> *El Siglo XIX*, 23 de abril y 17 de mayo de 1853.

<sup>84</sup> *El Siglo XIX*, 26 de abril de 1853.

This approval, if indeed it had occurred, might indicate that Pierce would respect Mexican rights, but his term would soon be over, and even during his administration "unexpected contingencies" might arise. On June 5, he came forth with an editorial urging the organization of a strong army, pointing out as the chief reason for this action the fact that the reported attitude of the Pierce government regarding Mesilla could not be taken as unfailing evidence that the United States would always be able to restrain the sentiment for unlimited expansion.

Statements coming from an organ which, like *El Universal*, was supporting Santa Anna and his centralist system, probably should be somewhat discounted. The threat of foreign invasion may have had something to do with his recall from exile,<sup>85</sup> and it could certainly be used to consolidate his power. But even *El Siglo XIX* gave evidence of considerable feeling and alarm. On June 5, the editor stated that indications pointed to the conclusion that the United States had not been responsible for Lane's action. It might be that war would not result. He hoped not. The Mexican people did not desire war, but they could not afford to allow their rights to be infringed upon. "If just because Mexico is weaker than the United States, we should submit to the most exaggerated pretensions, our country would be unworthy of the name nation."

News that the disapproval of Lane's action was probably the cause of his removal, and that the commander of the federal forces in New Mexico had refused to support the territorial executive, should have served to allay the disturbed state of mind at least temporarily, but certain factors tended to nullify the effect of these actions. Lane had been replaced, but what instructions had been given to Merriwether who superseded him? Sumner had refused to assist Lane in his proposed occupation of *Mesilla*, but he had now been transferred elsewhere, and the instructions and attitude of Garland who had been placed in command of the New Mexican department were matters for uneasy conjecture. Conkling had assumed a conservative and

<sup>85</sup> *El Universal*, 30 de marzo de 1853, and following; Bancroft, *History of Mexico* (San Francisco, 1883-1888), V. 634.

friendly attitude regarding the dispute, but what instructions would be given to Gadsden who was soon to succeed to his post?

In the absence of definite knowledge the Mexican public turned to the American newspaper. June 22, *El Universal* reported that the latest periodicals from the United States indicated the most interesting topic of discussion to be *La Mesilla*. The New Orleans *Picayune* had announced that the affair had taken on new complications. A number of troops had already received orders to proceed from Texas to New Mexico, among which were six companies of the eighth regiment of infantry. The two companies of light artillery already stationed in New Mexico were to receive fresh horses. Three hundred recruits were to leave Fort Leavenworth on the 20th for Santa Fé. Under the command of Garland, they were to form a sort of escort for Governor Merriwether. Although the administration did not think war would result, it had resolved to have forces in readiness upon the frontier. The *True Delta* of New Orleans declared that the United States meant to repel any Mexican force that appeared in the disputed region. The *True Delta* did not believe a serious break would occur, however, for Mexico surely must know that such a step would mean "the disappearance forever of its nationality". At the same time these periodicals, together with the Washington *Union* which was supposed to be the official organ, asserted that Gadsden was to proceed to Mexico with authority to purchase the Mesilla Valley and whatever other territory the government "desired" or was "compelled to have" for the purpose of a Pacific railway.

On June 29, the entire front page of *El Universal* was covered by an editorial treating of the recent news from the United States, and giving special attention to an article contained in a recent number of the *Union*. The editor remarked that although the first news from Washington had been gratifying, it now seemed that there had been a change. He was inclined to this opinion the more, because the news had been conveyed by official and semi-official channels. Moreover, Mexico need not be surprised to learn of the changed attitude, because the nation had already had occasion to be grieved by the iniquitous genius of

the Republic of the North for advancing its material interests. The *Union* had produced arguments in support of the contention that *La Mesilla* belonged to the United States; but to a nation whose politics were based upon the brutal laws of force only one argument, that of self-interest, was necessary. Why not renounce the treaty of Guadalupe Hidalgo, renew the fight which it terminated, and require more territory as the price of peace?

President Polk invaded us because his country desired . . . more territory. To-day there exists the same desire. . . Why does not Mr. Pierce give pleasure to the democrats? Why does he not extend, as they say, the *area of liberty* so as to cause to participate in its benefits the people which they consider slaves? Ah! it would be worthy of the Model republic to *emancipate* the new world by the same system which it had employed in Texas, California, and New Mexico!

Finally, while the same organ, on July 25, denied the statement that hostilities had opened between the Mexican and American forces in the neighborhood of Mesilla, it reported in its number of September 8, news purporting to come from a reliable source that the United States had 10,000 troops on the Rio Grande and that a skirmish had occurred between Trias and an American detachment.

Once more it must be borne in mind that *El Universal* was a supporter of Santa Anna whose interest such alarm would serve. Nevertheless, these reports must have kept the public in a state of anxiety. Moreover, *El Siglo XIX*, continued to give alarming excerpts from the news of the United States relating to the dispute. The *Chronicle* of New York, for instance, was quoted as reporting that Merriwether had orders to resist the occupation of Mesilla by Mexican troops, while a clipping from the *Times* declared that Trias and Garland could not carry out their respective orders without "clash and bloodshed", and that the arms and munitions sent to the frontier were more than had been at the disposal of General Taylor during his campaign.<sup>86</sup>

<sup>86</sup> *El Siglo XIX*, 11 y 13 de julio de 1853.



*Public Opinion in the United States.* As the foregoing quotations have already indicated, a portion of the press in the United States assumed either a somewhat defiant or a patronizing attitude. The editor of the *Alta California* of May 25, said that Santa Anna knew better than to attack the United States, but on August 22, he declared that he was "by no means satisfied" that the matter would be settled without war. The order of General Garland to the valley with troops was "entirely without meaning" if he did not mean to take possession, and, if he did, war was "inevitable". In the following September, the same paper reported that news from Washington was "unpleasantly indicative of a renewal of hostilities". The editor considered the "gradual absorption or the violent dismemberment of Mexico" an event which was to be consummated within a few years. And yet, Santa Anna had shown more disposition to carry his point by diplomacy than by war. It might be, also, that the increased military force lately ordered to the Rio Grande by the government of the United States was "designated to defend the frontier from Indian invasion".<sup>87</sup>

The exciting rumors in the United States apparently reached their climax in August. At that time the journals of New York, New Orleans, and Baltimore reported that Mexico was throwing a large body of troops on the Rio Grande with hostile intent. Such statements at length led the Mexican legation in the United States to send to the papers of Washington an explanatory communication to the effect that the movement of Mexican troops had for its purpose the maintenance of order and the defense of the frontier against the Indians.<sup>88</sup>

*The Mexican Version of the Gadsden Treaty.* The rumors of a threatened outbreak of hostilities gave opportunity for Santa Anna and his party to frame a version of the Gadsden negotiations which placed his sale of Mexican territory before his constituency in a somewhat favorable light. When the news of the alienation of the national domain aroused a storm of protest, the dictator and his friends endeavored to excuse their action

<sup>87</sup> *Alta California*, September 8, 1853.

<sup>88</sup> *El Siglo XIX*, 11 de noviembre de 1853; *Harper's Monthly*, VIII. (November, 1853), 835.

by the allegation that the United States would have taken the territory by force had they not consented to its sale.<sup>89</sup> This story was not sufficiently convincing, however, to stem the tide of opposition which soon ended in Santa Anna's overthrow, and on two subsequent occasions he referred to the affair, along with other matters, in an attempt to restore himself to the good graces of the Mexican people. These two accounts, one contained in a *pronunciamiento* issued from his place of exile in 1858 and the other in his memoirs written some ten years later, agree in essentials. In the first, he said, in substance, that the government of the United States, with the view of stirring up trouble, had dispatched a considerable force to threaten the department of Chihuahua; that the Mexicans "had nothing with which to oppose the invaders arrogantly appearing along the frontier but the sad spectacle . . . of our [their] exceeding weakness"; that during the progress of the negotiations Gadsden gave the Mexican officials to understand that the territory in question was absolutely essential to the United States, and that Mexico had as well sell it for a reasonable price, since "imperious necessity" would at length compel the Washington government to take it anyway. In the second statement, Santa Anna asserted that the United States government, "with knife in hand, was still trying to cut another piece from the body it had just horribly mutilated"; and that "an American division was already treading the soil of the State of Chihuahua". He then proceeded to describe the diplomatic conferences in detail. Although in the first account Santa Anna had said that Gadsden made propositions regarding "Baja California, part of Chihuahua and Sonora", in the later version he added Sinaloa and part of Durango. He remarked here, also, that Gadsden's threat to the effect that his government would resort to force in case Mexico persisted in refusing to part with territory, was made at a moment when the envoy was angry at the tenacity with which the Mexican negotiators supported their contentions.<sup>90</sup>

<sup>89</sup> See *El Universal*, 25 de enero de 1853, *et seq.*; *El Siglo XIX*, 26 de enero de 1853, *et seq.*

<sup>90</sup> For an English translation of these statements of Santa Anna, see *The Southwestern Historical Quarterly*, XXIV. No. 3 (January, 1921), 235 ff.

Since this version of the negotiations has been accepted by some of the leading historians of Mexico,<sup>91</sup> the concluding paragraphs of this paper may appropriately be given to an examination of the matter in the light of the documents now available. It will be noted that, according to this view, two charges are preferred against the United States government: (1) it occupied the territory in dispute prior to Santa Anna's decision to sell the region in question, and (2), it concentrated forces on the Rio Grande with the purpose of intimidating Mexico and compelling a cession of territory. The whole truth will not be known, of course, until all the Gadsden correspondence has been revealed, as well as all of the orders issued to the military commanders on the southern frontier; but the evidence now available renders the first charge in this version of the matter highly improbable. Reference has already been made to Marcy's decision that the territory in dispute should remain just as it was prior to the occurrence of the disagreement. It has been seen, also, that the region in question had probably not been occupied before Lane's removal from office, that Merriwether was instructed not to take any steps toward occupying the territory, even if upon his arrival he should find Mexican troops on the ground; and that Garland, who superseded Sumner as commander of the forces of the United States in the region, was handed a copy of Merriwether's instructions for his guidance. These facts seem to indicate the absence of any intention on the part of the United States to occupy the disputed section; and apparently there was no change of purpose prior to the completion of the negotiations which resulted in the Gadsden treaty.

In the first letter written from his post of duty, Merriwether remarked that there were about thirty Mexican soliders in the disputed territory, and that rumor had it that there were many more on their way, but he made not the slightest reference

<sup>91</sup> See, for instance, Vicente Riva Palacio, *México a través de los Siglos* (Barcelona, 1888-1889), IV. 812, 916; Niceto de Zamacois, *Historia de Méjico* (Mexico, 1877-1882), XIII. 663-664, 776; Francisco de Paula de Arrangois y Berzábal, *México desde 1808 hasta 1867* (Madrid, 1871-1872), II. 344; Ignacio Álvarez, *Estudios sobre la Historia de México* (Zacatecas, 1869-1877), VI. 75-76.

to United States troops being stationed there.<sup>92</sup> In his dispatch of August 31, he confirmed his previous view of the situation, but maintained the same significant silence regarding the forces of the United States.<sup>93</sup> Although no letter of Merriwether's written during September or October has been seen, the communication of Gadsden (dated October 8, 1853) to the military officer commanding in New Mexico, which informed him that an agreement to leave the territory in *statu quo* had been made but gave no directions as to the removal of troops, appears to be strong evidence that no news regarding an occupation on the part of United States forces had reached the American Minister up to this time.<sup>94</sup> Lastly a letter from Merriwether to Marcy, dated November 14, indicates that such action had not yet been taken. Merriwether asked for instructions regarding a criminal who had escaped to the disputed region. He said, he feared that if he asked the governor of Chihuahua for the culprit, his request might be construed into an acknowledgment of the possession of the section by that state, and that an attempt at forcible seizure might "precipitate matters more than it is [was] desirable to the government at Washington".<sup>95</sup> Since the report of subsequent occupation could hardly have reached Mexico City in time to effect the Gadsden negotiations, the conclusion seems warranted that the first charge preferred against the United States by Santa Anna is false.

The second charge, however, apparently rests upon a firmer basis. It may be at least a half truth; it seems pretty certain that the United States did increase its forces on the southwestern frontier. Moreover, this augmentation may have been designed to intimidate Mexico into a favorable settlement of the points at issue. The concluding paragraph of Merriwether's letter of November 14 gives some indication of such a purpose. He said:

At this time there is no military force in the disputed territory, the Mexicans having removed their small force some time since, and should

<sup>92</sup> Merriwether to Marcy, August 13, 1853, State Department, B.I.A.

<sup>93</sup> Same to same, *loc. cit.*

<sup>94</sup> State Department, B.I.A.

<sup>95</sup> State Department, B.I.A.

the general government desire to precipitate matters this will afford an opportunity [sic] of so doing.

The fact that troops were concentrated on the frontier would not, however, necessarily imply an intention on the part of the United States government to resort to force in order to settle the dispute; they could have been sent for the purpose of dealing with the Indian situation in New Mexico which was sufficiently grave to justify the step, or as a counter move against the reported concentration of Mexican troops on the northern frontier.

J. FRED RIPPY.

University of Chicago.